

DEVELOPER ESCROW AGREEMENT

This Developer Escrow Agreement ("Agreement") is between the City of Saginaw, Texas, a Texas home-rule municipal corporation ("City"), 333 West McLeroy Blvd., Saginaw, Texas 79070 and Texas Opportunity Fund SNF Investment LP, a Texas limited partnership company ("Developer"), with its principal offices at 21726 Hardy Oak, San Antonio, Texas 78258. The City and Developer are each a "Party" and collectively "Parties" and are each acting through their authorized representatives. The Agreement shall be effective as of the date of the last signature below.

Recitals

WHEREAS, the Developer has submitted applications for development of Lot 1, Block 1, Saginaw Skilled Nursing Addition to the City ("Property") which is known locally as 848 West McLeroy Blvd., Saginaw, Texas; and

WHEREAS, Developer seeks approval from the City of Saginaw for the construction of a Skilled Nursing Facility on the Property ("Project"); and

WHEREAS, the City's Subdivision Ordinance requires the installation of sidewalks with the development of the Project; and

WHEREAS, West McLeroy Blvd. and Knowles Drive are not currently constructed in accordance with the City's Subdivision Ordinance; and

WHEREAS, the City and Developer agree that the construction of the sidewalks along West McLeroy Blvd. and Knowles Drive should be deferred until the roadway is constructed in accordance with the City's Subdivision Ordinance.

Agreement

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and adequacy are acknowledged, the Parties agree as follows:

1. The Project, or any portion thereof, at all times shall be developed and constructed in accordance with all applicable City ordinances and agreements related to the Project and shall be subject to said ordinances and agreements, as such now exist or may hereafter be amended and/or approved by the City. Unless otherwise expressly stipulated in this Agreement, nothing herein shall relieve Developer from its responsibilities for the construction of public improvements under applicable development ordinances of the City.
2. The Developer, in lieu of the construction of the sidewalks along West McLeroy Blvd. and Knowles Drive and adjacent to the Project as shown in Exhibit "A", agrees to place in escrow the amount of \$43,933.95 ("Escrow Funds"). This amount is based upon the cost estimate attached as Exhibit "B".

3. The Escrow Funds will be held in sole name of the City.
4. The Developer relinquishes any claims now or at any future date to the Escrow Funds and the City agrees not to impose any additional costs to the Developer of the Project for now or at any future date for the construction of the sidewalks along West McLeroy Blvd. and Knowles Drive adjacent to the Project.
5. The City will issue a building permit for the Project without the requirement of the sidewalks along West McLeroy Blvd. and Knowles Drive adjacent to the Project upon deposit of the Escrow Funds with the City.
6. Developer has been represented by legal counsel in the negotiation of this Agreement and been advised, or has had the opportunity to have legal counsel review this Agreement and advise Developer, regarding Developer's rights under Texas and federal law. Developer hereby waives any requirement that the City retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the City in this Agreement, if any, as a condition of Project approval, including the terms of this Agreement, are roughly proportional or roughly proportionate to the Project's anticipated impact. Developer specifically reserves its right to appeal the apportionment of sidewalk costs in accordance with § 212.904 of the Texas Local Government Code; however, notwithstanding the foregoing, Developer hereby waives and releases the City from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of the sidewalk improvements required by this Agreement.
7. Developer waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 of the Texas Local Government Code in regard to this Agreement. Both Developer and the City further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements in this Agreement, if any, mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this Agreement. Developer further acknowledges that the benefits of zoning and platting have been accepted with full knowledge of potential claims and causes of action which may be raised now and in the future, and Developer acknowledges the receipt of good and valuable consideration for the release and waiver of such claims.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as set forth below.

THE CITY OF SAGINAW, TEXAS,
a Texas home-rule municipal corporation

Todd Flipppo, Mayor

Signed on the _____ day of _____, 2021.

Acknowledgment

State of Texas §
Tarrant County §

This instrument was acknowledged before me on this the ____ day of _____, 2021
by Todd Flippo, Mayor of the City of Saginaw, Texas, a Texas home-rule municipal
corporation, on behalf of said corporation.

Notary Public, State of Texas

Texas Opportunity Fund SNF Investment LP,
a Texas limited partnership company

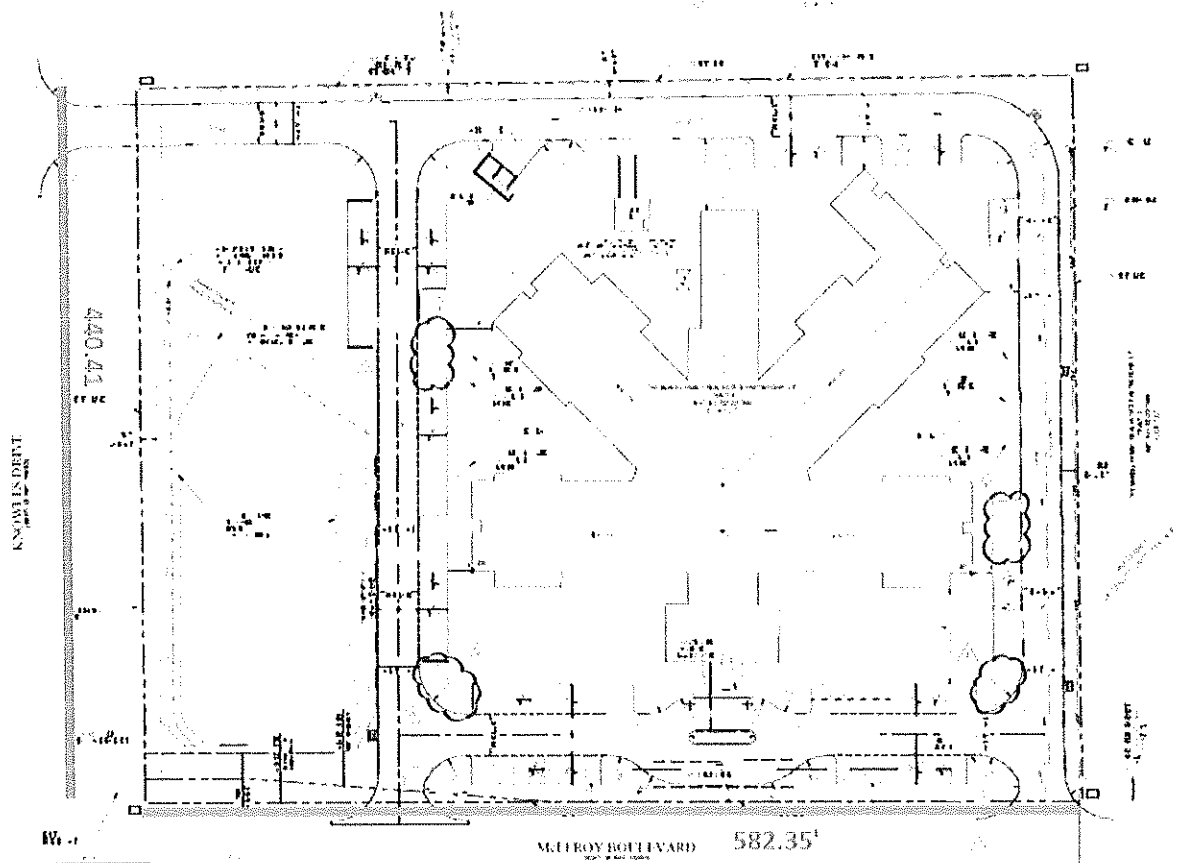
21726 Hardy Oak
San Antonio, Texas 78258

Acknowledgment

This instrument was acknowledged before me on this the 31st day of March, 2021, Jeffery Smithers, Manager, Texas Opportunity Fund SNF Investment LP, a Texas limited partnership company,



Exhibit A



Future 5 foot wide sidewalk



N.T.S.

Exhibit B

Sidewalk Estimate for Saginaw Skilled Nursing Facility

Item	Quantity	Unit	Unit Price	Item Price
5' Wide, 4" 3,000 psi Concrete Sidewalk	5114	S.F.	\$ 5.80	\$ 29,661.20
ADA Sidewalk Ramp	6	Ea.	\$ 1,500.00	\$ 9,000.00
Excavation	1023	L.F.	\$ 1.25	<u>\$ 1,278.75</u>
Sub-Total				\$ 39,939.95
10% Contingency				<u>\$ 3,994.00</u>
Total				\$ 43,933.95